

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.

For: **BREAST BIOPSY SYSTEM AND
METHOD**

Serial No.: 09/929,371

Filed: August 13, 2001

Atty. Docket No.: 09619.1001

) Examiner: Not yet assigned

) Group Art Unit: 3736

) Customer No. 23422

) **RESPONSE TO NOTICE OF**
) **OMITTED ITEM(S) IN A**
) **NONPROVISIONAL APPLICATION**

CERTIFICATE OF MAILING PURSUANT TO 37 CFR 1.8

I hereby certify that this paper is being deposited in the United States mail as first class mail with postage prepaid, and is addressed to the Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231 on 2/5/03 in San Francisco, CA.

By: *mdj*

Commissioner for Patents
U.S. Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

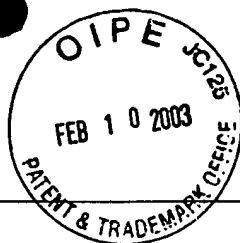
In response to the Notice of Omitted Item(s) In A Nonprovisional Application –
Filed Under 37 C.F.R. § 1.53(b) mailed November 12, 2002, transmitted herewith is
Part 2 of the Notice and pages 22-26 of the specification in the above-referenced
application.

Respectfully,

By: *Edward J. Lynch*
Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

Coudert Brothers LLP
600 Beach Street, 3RD Floor
San Francisco, CA 94109
Direct Dial: (415) 351-5708
Facsimile: (415) 409-7400

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 Commissioner for Patents
 Washington, DC 20231
 www.uspto.gov

HELLER EHRMAN

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/929,371	08/13/2001	Fred H. Burbank	9619-1001

Edward J. Lynch
 Heller Ehrman White & McAuliffe LLP
 275 Middlefield Road
 Menlo Park, CA 94025-3506

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CONFIRMATION NO. 2284

FORMALITIES LETTER



OC00000009092775

Date Mailed: 11/12/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) **22-26** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the

references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*

Thank You

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



RECEIVED

JAN 29 2003

COUDERT BROTHERS LLP
SAN FRANCISCO

January 27, 2003

Via 1st Class Mail

Mr. Edward J. Lynch
Coudert Brothers, LLP
600 Beach Street
3rd Floor
San Francisco, CA 94109

Rachel Mena
rmena@hewm.com
Direct (650) 833-7350
Main (650) 324-7000
Fax (650) 324-0638

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Re: Transfer of USPTO correspondences

Dear Mr. Lynch:

Enclosed are the original correspondences, as listed below, in the connection with the above subject matter.

1. Office Action re 09/527,868 dated 12/10/2002 (26684-1110)
2. Corrected Publication re PCT/US01/00543 dated 12/12/2002 (26684-5100)
3. Notice of Omitted Items re 09/929,371 dated 11/12/2002

We trust you will provide the U.S. Patent & Trademark Office with a Revocation and Power of Attorney form, including a change of address. Also, we would appreciate your acknowledging receipt of the above-identified item by executing and returning the enclosed copy of this letter.

If you have any questions, please feel free to contact our office. Thank you for your cooperation.

Very truly yours,

Rachel Mena
Patent & Trademark Administrator

Enclosures

Receipt acknowledged:

Name: _____ Date: _____



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of
Burbank et al.

For: **BREAST BIOPSY SYSTEM AND METHOD**

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Filed: August 13, 2001

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) Group Art Unit: 3736
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) Customer No.: 23422
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TRANSMITTAL

CERTIFICATE OF MAILING PURSUANT TO 37 CFR 1.8

I hereby certify that this paper is being deposited in the United States mail as first class mail with postage prepaid, and is addressed to Certificate of Correction Branch, Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231 on 2/5/03 in San Francisco, CA.

By: [Signature]

Commissioner for Patents
U.S. Patent and Trademark Office
Washington, D.C. 20231

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Dear Sir:

1. Transmitted herewith for filing in the above-identified patent application are

- ☒ Part 2 of Notice of Omitted item(s) In A Nonprovisional Application – Filed Under 37 C.F.R. § 1.53(b);
- ☒ Response To Notice Of Omitted Item(s) In A Nonprovisional Application;
- ☒ A copy of pages 22-26 of pending prior application;
- ☒ Petition For Reconsideration Of Notice Of Omitted Items;
- ☒ A copy of letter dated January 27, 2003 from Heller Erhman;
- ☒ A copy of return receipt postcard acknowledgment from Patent Office;
- ☒ Associate Power Of Attorney and Change Of Correspondence Address; and
- ☒ A self-stamped return receipt postcard.

2. Calculation of Fees Due

- ☒ Petition fee per 37 C.F.R. § 1.182(h), \$130.00.

3. Payment of Fees

- ☒ Enclosed herewith is check no. 62655 in the total amount of \$130.00.
- ☒ The Commissioner is authorized to charge any deficiencies in payment of fees

and to credit any overpayment of fees which may be required under 37 C.F.R.
§1.16 or §1.17, to Deposit Account No 13-0201, referencing Atty. Docket No.
9619.1001. **A duplicate copy of this transmittal is enclosed.**

Respectfully submitted,

By: _____

Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

Coudert Brothers LLP
600 Beach Street, 3RD Floor
San Francisco, CA 94109
Facsimile: (415) 409-7400
Direct Dial: (415) 351-5708